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Federal Communications Commission
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MM Docket No. 97-____
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PETITION FOR RULE MAKING

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that contemplates amending the Table of Allotments by (i) deleting the allotment of Channel 279C from Berlin, New Hampshire, (ii) allotting Channel 279C to North Conway, New Hampshire, and (iii) modifying Fuller-Jeffrey's license for WPKQ in order to specify North Conway, in lieu of Berlin, as the station's community of license. In support, Fuller-Jeffrey respectfully submits the following:

1. Fuller-Jeffrey's proposal complies with the requirements of Section 1.420(i) of the Commission's Rules. The proposed allotment of Channel 279C to North Conway would be mutually exclusive with the current allotment of Channel 279C to Berlin. Section 73.207(b) of the Commission's Rules requires that a separation of not less than 290 kilometers be maintained between co-channel Class C FM broadcast station channel allotments. An examination of Exhibit B to this Petition for Rule Making reveals that Berlin and North Conway are less than 50 kilometers apart. ^{1/}

^{1/} Exhibit B is designated as an "Area Map" and was prepared by Fuller-Jeffrey using a 1996 DeLorme Street Atlas USA as the base map, upon which are shown in particular WPKQ's present city of license (Berlin, New Hampshire), WPKQ's transmitter site on the peak of Mount Washington, New Hampshire, and WPKQ's proposed new community of license (North Conway, New Hampshire).

2. Removal of the allotment of Channel 279C from Berlin to North Conway would result in a preferential arrangement of allotments. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), reconsideration granted in part and denied in part, 5 FCC Rcd 7094 (1990). Berlin, whose population according to the 1990 U.S. Census was 11,824 persons, currently has two local aural transmission services: WPKQ and AM radio broadcast station WMOU. ^{2/} ^{3/} Although it is a part of the town of Conway, which has three local aural transmission services, see Paragraph 3 and Footnote 5, infra, North Conway, whose population is 2,032 persons, ^{4/} currently has no local aural transmission service. Removing the Channel 279C allotment from Berlin to North Conway would thus provide North Conway with its first local aural transmission service. Provision of a first local aural transmission service is the third of the four channel

^{2/} WMOU is licensed to operate on the frequency 1230 kiloHertz using one kilowatt of power on an unlimited-time basis. See Engineering Statement of Robert M. Smith, Jr., Fuller-Jeffrey's broadcast engineering consultant, dated April 1, 1997 and appended to this Petition for Rule Making as Exhibit A.

^{3/} Berlin also enjoys aural reception service from FM radio broadcast stations WXLQ, licensed to Gorham, New Hampshire, and WHOM, licensed to Mount Washington, New Hampshire.

^{4/} Rand-McNally Atlas, 1997 edition.

allotment priorities in the FM broadcast service and is co-equal in weight with the second such priority, namely, the provision of a second aural reception service. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982). Moreover, removal of the allotment of Channel 279C from Berlin to North Conway will not deprive Berlin of its only local aural transmission service, as WMOU will continue to provide such service to Berlin. Finally, North Conway is not located within any Urbanized Area, and therefore is not presumed to have its needs for a local aural transmission service satisfied by a station licensed to another community within the same Urbanized Area.

3. Although not separately incorporated, the village of North Conway is listed in the Rand-McNally Atlas, 1997 edition, as a community having a population of 2,032 persons. North Conway is recognized as one of five distinct communities within the town of Conway, the other four such communities being Center Conway, Redstone, East Conway, and Conway. Each of the five communities constitutes a separate population grouping and is separated from the other four by rural landscape. Of the five communities, North Conway has the majority of commercial and other establishments, including its own Post Office and Zip Code (03860), the

area's only hospital, several factory outlet malls, and fire and police facilities. ^{5/}

4. The change in the Table of Allotments proposed in this Petition for Rule Making will not affect the reception service provided by WPKQ, as Fuller-Jeffrey does not intend to change the station's current transmitter site or transmitting facilities at the summit of Mount Washington, New Hampshire. The reference point for the allotment of Channel 279C to Berlin is identical to WPKQ's current transmitter site. Fuller-Jeffrey requests that the same reference point be used for the allotment of Channel 279C to North Conway. As set forth in Mr. Smith's Engineering at Exhibit A to this Petition for Rule Making, the reference point for the allotment of Channel 279C (i.e., the current WPKQ transmitter site) is "short-spaced" to co-channel Class B FM radio broadcast station WKNE, Channel 279B in Keene, New Hampshire. However, the short-spacing between WPKQ and WKNE pre-dated the Commission's adoption of the separation requirements for stations in the FM broadcast service, has existed since before November 16, 1964, and is

^{5/} There are three licensed local aural transmission services to the town of Conway. They are FM radio broadcast stations WBNC-FM and WMWV and AM radio broadcast station WBNC.

"grandfathered" pursuant to Section 73.213(a) of the Commission's Rules. In addition, the Engineering Statement observes that the allotment reference point for Channel 279C at Berlin (and the requested allotment reference point for Channel 279C at North Conway) is short-spaced to a co-channel Class A allotment at Kahnawake in the Canadian province of Quebec, as well as to a proposed new Class A FM radio broadcast station on Channel 279A at Kahnawake. Furthermore, the proposed Channel 279C allotment at North Conway would be short-spaced to a proposed new co-channel Class A allotment in Montreal in the province of Quebec. Fuller-Jeffrey requests that the allotment of Channel 279C to North Conway be coordinated with Canada. Because the proposed allotment reference point for a North Conway allotment is identical to the current allotment reference point for the Berlin allotment, as well as identical to WPKQ's current and long-standing transmitter site, Fuller-Jeffrey expects Canadian concurrence in the proposed amendment to the Table of Allotments.

5. Fuller-Jeffrey hereby states its intention to apply for the Commission's authorization to modify Fuller-Jeffrey's license for WPKQ, in order to change the station's

community of license to conform to the amendment to the Table of Allotments herein requested.

WHEREFORE, the foregoing having been duly considered, Fuller-Jeffrey respectfully petitions the Commission's staff to initiate a rule making proceeding in order to amend the Table of Allotments as set forth below, and to modify Fuller-Jeffrey's license for WPKQ accordingly:

<u>City and State:</u>	<u>Current:</u>	<u>Proposed:</u>
Berlin, New Hampshire	279C	-----
North Conway, New Hampshire	-----	279C.

Respectfully submitted,

**FULLER-JEFFREY BROADCASTING
CORPORATION OF GREATER DES MOINES**

By: 
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Its Attorney

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April 25, 1997

WDC-94590.1

EXHIBIT A

ENGINEERING STATEMENT

In Support of:

PETITION FOR RULE MAKING

By:

FULLER-JEFFREY BROADCASTING CORPORATION OF GREATER DES MOINES

APRIL 1997

PETITION FOR RULE MAKING

By:

FULLER-JEFFREY BROADCASTING CORPORATION OF GREATER DES MOINES

PURPOSE AND SCOPE

This Engineering Statement is prepared in support of Fuller-Jeffrey Broadcasting Corporation of Greater Des Moines' ("Fuller-Jeffrey") ^{1/} Petition for Rule Making ("Petition") to amend the FM Table of Allotments in 47 C.F.R. 73.202(b), by the deletion of Channel 279C, Berlin, New Hampshire and addition of Channel 279C, North Conway, New Hampshire.

ALLOCATION SITUATION

Figure 1 of this Statement is a portion of a U.S. Geological Survey 7.5 X 15 Minute Topographic Quadrangle (Mount Washington, NH) showing the present and proposed Allotment site at N44-16-14, W71-18-15. No change in Allotment site is proposed. The site is located in the un-incorporated Sargents Purchase, Coos County, New Hampshire. The ground level at the proposed site is 1906 meters above mean sea level.

^{1/} Fuller-Jeffrey is the licensee of WPKQ(FM), Channel 279C, Berlin, NH, (F.C.C. File No. BLH-881228KA) and is operating the facility from the licensed site on Mount Washington, NH. Upon grant of the Petition, Fuller-Jeffrey plans to continue utilizing the present site.

ALLOCATION SITUATION (Continued)

DOMESTIC SITUATION:

The allotment site meets all spacing requirements to all domestic allotments or permitted/licensed facilities as specified in 47 C.F.R. 73.207(b)(1) except WKNE-FM, Keene, NH, (F.C.C. File No. BLH-921231KD). The required separation between domestic co-channel Class C and Class B facilities is 274 km. The actual separation between the allotment site and the WKNE-FM facility is 162 km. WPKQ(FM) and WKNE-FM are operating at their presently licensed sites pursuant to former provisions of 47 C.F.R. 73.213 regarding grand-fathered short-spaced facilities. Both WKNE-FM and WPKQ(FM) pre-date November 16, 1964 and have remained short-spaced throughout their operation. Since no change in either the allotment site nor the WPKQ(FM) transmitter site is proposed, no change to its operations is required. No other modifications to the FM Table of Allotments is required nor requested by this Petition.

No potential allotment site exists that satisfies the requirements of 47 C.F.R. 73.207(b)(1) and (b)(2) and provides 70 dBu contour coverage of either Berlin or North Conway, NH.

CANADIAN SITUATION

The allotment site is fully spaced to all Canadian allotments or permitted/licensed facilities as specified in 47 C.F.R. 73.207(b)(2) except a proposed new class A facility and allocation on channel 279 in Kahnawake, Quebec; and a proposed new channel 279A facility and Proposed Rule Making in Montreal, Quebec.

Fuller-Jeffrey requests that the proposed allotment of channel 279C to North Conway, NH be coordinated with Canada. Since no change in the allotment site nor to the presently authorized WPKQ(FM) directional antenna is proposed, Fuller-Jeffrey believes the instant proposal should be acceptable to Canada.

COMPLIANCE WITH 47 C.F.R. 73.315

A maximum Class C facility and the licensed facilities of WPKQ(FM) provide 70 dBu contour coverage over the entire community of North Conway, NH. Figure 2 of this Statement is a portion of an Aeronautical Sectional Chart showing the 70 dBu contour generated by WPKQ(FM) utilizing the directional antenna required to protect a WKNE(FM) and the Canadian facilities. Also shown is the outline of the community of North Conway, NH.

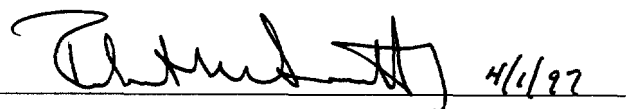
The site proposed has no population within the immediate vicinity of the antenna and is on the highest point available in the northeastern United States. No terrain obstructions between the site and North Conway exist which would limit the ability of the site to provide 70 dBu coverage to North Conway.

CONCLUSIONS

Fuller-Jeffrey believes this Petition is consistent with the technical requirements of the Federal Communications Commission's rules, regulations and policies regarding FM allotments. Fuller-Jeffrey also believes that this Petition should be acceptable to the government of Canada since the protection provided to Canadian facilities does not change under this proposal.

A grant of this petition will provide the first local service to North Conway, New Hampshire and will not eliminate the first local service from Berlin, New Hampshire. ^{2/}

2/ WMOU(AM) 1230 kHz, 1 kW-U is licensed to Berlin, NH.



Robert M. Smith Jr.

STATEMENT OF QUALIFICATIONS

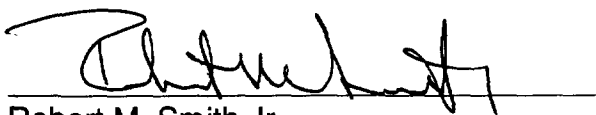
I, Robert M. Smith Jr. of Windham, New Hampshire, state:

That I was retained by the applicant to prepare the Statement and Figures contained herein, and that all statements and data contained herein are true and accurate to the best of my knowledge and belief;

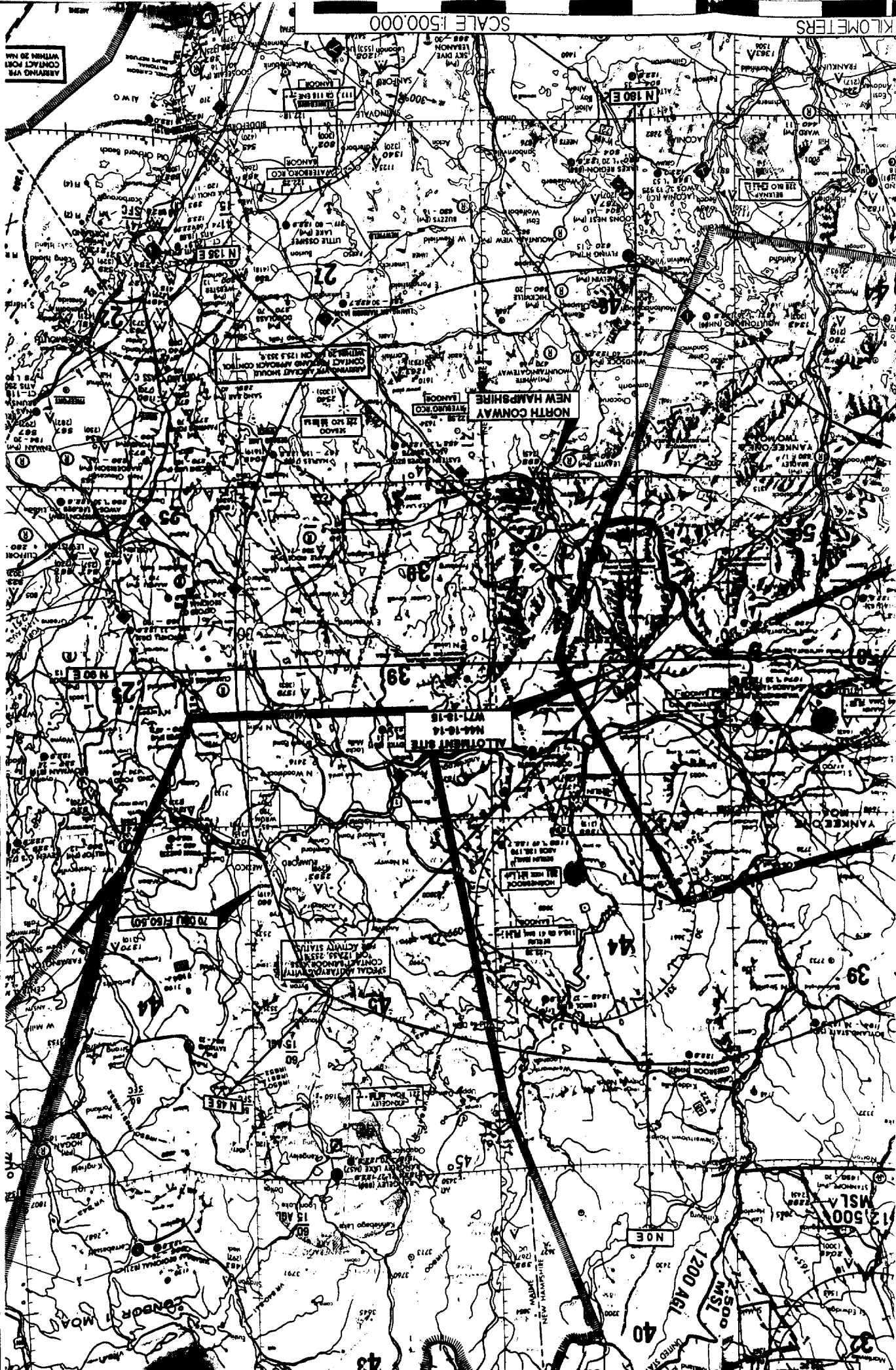
That I am an experienced and qualified radio broadcast engineer;

That I am the Proprietor of R.M. Smith Associates, a broadcast technical consulting firm in Windham, New Hampshire; and

That my qualifications are a matter of record with the Federal Communications Commission, having filed applications and technical measurements with it on numerous occasions in the past.

A handwritten signature in black ink, appearing to read 'Robert M. Smith Jr.', written over a horizontal line.

Robert M. Smith Jr.



**FULLER-JEFFREY BROADCASTING CORP
OF GREATER DES MOINES**

March 1997

R. M. SMITH ASSOCIATES
Broadcast Technical Consultants
8 Deer Run Road

EXHIBIT B

[illegible]

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